



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

MAY 0 1 1997

Reply To
Attn of: OI-085

RECEIVED

MAY 12 1997

Honorable Gary Locke
Governor of Washington
P.O. Box 40002
Olympia, WA 98504-0002

OFFICE OF THE GOVERNOR

Dear Governor Locke:

Thank you for the opportunity to further clarify the role of the U.S. Environmental Protection Agency with regard to House Bill 1866 providing for an Environmental Excellence Program in the State of Washington.

I am encouraged that the proposed legislation reflects many of the strengths of the Federal XL Program, including opportunities for meaningful stakeholder involvement in the development of Environmental Excellence Performance Agreements (EEPA).

I do want to make clear our position that EPA must approve any proposed EEPA that seeks flexibility from federal requirements, including such requirements of federally delegated state programs. In arriving at such decisions, EPA will apply its criteria of 'superior environmental performance' as it is currently defined in the Federal XL program.

To avoid future misunderstandings, I also want to bring to your attention a possible problem which HB 1866 does not adequately address. The Bill provides EPA with at least 30 days in which to object to an EEPA which contains terms affecting legal requirements adopted to comply with provisions of a federal regulatory program. If EPA objects, it is clear that the proposed EEPA goes no further. However, if EPA fails to object to an EEPA which runs afoul of a federal requirement, the federal requirement continues in full effect. It follows, then, that we must retain our ability to enforce any non-compliance with federal requirements.

I look forward to continuing our joint efforts to improve and strengthen our delivery of environmental services.

Sincerely,

A handwritten signature in cursive script, appearing to read "Chuck".

Charles C. Clarke
Regional Administrator